

Mac A. Fleming
President



Freddie N. Simpson
Secretary-Treasurer

209945

Brotherhood of Maintenance of Way Employees

Affiliated with the A.F.L.-C.I.O. and C.L.C.



January 21, 2004

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

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Re: Finance Docket No. 34424

Dear Secretary Williams:

Please find enclosed for filing with the Board an original and 20 copies of the Brotherhood of Maintenance of Way Employees' "Comments." Also enclosed is a 3.5" diskette containing an electronic copy of the document in WordPerfect 10 format.

Respectfully submitted,

Director of Strategic Coordination & Research

cc: parties of record
F. N. Simpson
L. Fenhaus
H. Wise

209945

BMWE - 2

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34424



CANADIAN NATIONAL RAILWAY COMPANY AND
GRAND TRUNK CORPORATION - CONTROL -
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY,
BESSEMER AND LAKE ERIE RAILROAD COMPANY AND
THE PITTSBURGH & CONNEAUT DOCK COMPANY

COMMENTS OF THE BROTHERHOOD OF
MAINTENANCE OF WAY EMPLOYES

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Donald F. Griffin
Director of Strategic Coordination & Research
Brotherhood of Maintenance of Way Employees
10 G Street, N.E., Suite 460
Washington, D.C. 20002
(202) 638-2135

January 21, 2004

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34424

CANADIAN NATIONAL RAILWAY COMPANY AND
GRAND TRUNK CORPORATION – CONTROL –
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY,
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COMMENTS OF THE BROTHERHOOD OF
MAINTENANCE OF WAY EMPLOYEES

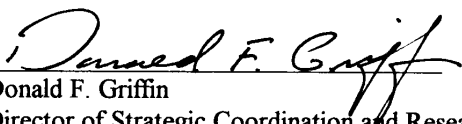
The Brotherhood of Maintenance of Way Employees (“BMWE”) respectfully submits the following comments pursuant to Decision No. 2 in this proceeding, served December 1, 2003. BMWE neither supports nor opposes the transaction presented in the Application. BMWE’s participation in this proceeding primarily is concerned with the impact of this transaction on maintenance of way employees and the use of employee protective conditions imposed by the Board to ameliorate any harm suffered by those employees.

The application proposes a minor transaction that will involve the operational integration of the Duluth, Missabe and Iron Range Railway Company (“DMIR”) into Canadian National Railway Company’s (“CN”) existing operations. Accordingly, BMWE submits the employees of the DMIR will be directly affected by the Board’s approval of this transaction. BMWE also notes that CN states that it “has no plans to change the operations or function of [the Bessemer and Lake Erie Railroad Company (“B&LE”)]. Application at 167. Additionally, CN states that no lines of railroad will be abandoned as part of the implementation of the Transaction. Id. at 162.

BMWE has conducted very preliminary discussions with CN regarding the possible integration of the DMIR maintenance of way employees into CN's existing operations. CN has indicated that such an integration probably will occur in the future, but will not occur immediately after the Board's approval of the application. In any event, CN representatives have made it clear that any integration of workforces will take place under the New York Dock conditions. BMWE notes that in prior transactions involving CN, implementing agreements were reached voluntarily without resort to arbitration.

CN concedes that Board approval of this transaction must be conditioned upon the provision of the New York Dock¹ employee protective conditions. Application at 15. The New York Dock conditions are the minimum level of protective conditions required by law and both the courts and this Board acknowledge the Board retains the right to impose more stringent protective conditions if they are required to protect the interests of employees. New York Dock v. U.S., 609 F.2d at 91-92, 49 C.F.R. 1180.1(e). Based upon the representation of CN and BMWE's discussions with the Applicant, BMWE believes the New York Dock conditions will adequately protect the interest of maintenance of way employees affected by this transaction.

Respectfully submitted,

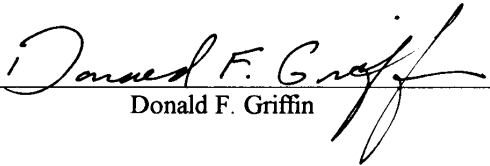

Donald F. Griffin
Director of Strategic Coordination and Research

Dated: January 21, 2004

¹The conditions imposed in New York Dock Ry. -Control-Brooklyn Eastern Dist. Term., 360 I.C.C. 60, aff'd sub nom., New York Dock Ry. v. U.S., 609 F.2d 83 (2d Cir. 1979).

Certificate of Service

I hereby certify that today I served a copy of the foregoing "Comments of the Brotherhood of Maintenance of Way Employees" upon all parties of record in this proceeding by first class mail delivery.


Donald F. Griffin

Dated: January 21, 2004